REMARKS

Claims 1-26 are pending in the present application. In the Office Action mailed October 6, 2003, the Examiner rejected claims 1-26 under 35 U.S.C. §102(b) as being anticipated by Fox (USP 4,875,782).

The Examiner rejected claims 1-26 under 35 U.S.C. §102(b) as being anticipated by Fox stating that Fox shows all of the claimed subject matter of an apparatus in Figs. 1-3. Applicant respectfully disagrees.

In accordance with MPEP §2111, during patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. MPEP §2111 further states that "the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach." Initially, Applicant believes that a person of ordinary skill in the art would not interpret a temperature indicator stick as claimed to be the same as the temperature probe apparatus of Fox. Specifically, as stated in the specification -- and directed to known temperature detection devices and methods -- "Some devices use gauges or electronic components having thermistors, whereas others use chemical compounds formed as temperature indicator sticks that feed through mechanical temperature indicators." Paragraph [0021]; Page 6, Second paragraph. That is, a person of ordinary skill in the art would readily recognize that a temperature indicator stick, as used in the claims and the specification, is a chemical compound that is constructed to change phase at a predetermined temperature thereby indicating a temperature. Such a "stick" is known in the art, and that known status cannot be ignored. As such, those claims that recite specific structure encompassing, surrounding and/or to work with a temperature indicator stick are patentably distinct over the temperature probe apparatus of Fox at least because there is no such temperature indicator stick disclosed therein.

More specifically, the Examiner rejected claim 1 stating that Fox shows a housing (lower portion of 10) having an outer surface and an inner chamber to receive a temperature indicator stick 26 therein. The Examiner continues that an advancement mechanism is positioned about the outer surface of the housing and capable of contact with the temperature indicator stick. Applicant respectfully disagrees.

Claim 1 calls for, in part, a housing having an outer surface and an inner chamber to receive a temperature indicator stick therein. As argued above, a person of ordinary skill in the art would readily recognize that the temperature probe of Fox is not a temperature indicator stick. Additionally, the reference states the probe is not an indicator but is connected to such a device.

Fox states that "...temperature probe 26 further includes a travel limiting bar 32 and an electrical connector housing 34 wherein one end of electrical connector wire 36 is connected to temperature probe 26. The other end of electrical connector wire 36 (see FIG. 3) is connected to remote control and indicator 50." (emphasis added) Col. 3, lns. 41-46. Applicant does not disagree that probe 26 is capable of measuring temperature; however, probe 26 does not indicate any temperature. That is, probe 26, disclosed as a thermocouple, does not show or point out any temperature but merely is capable of measuring it. The thermocouple must be connected to an external indicator 50 which in turn "indicates" the temperature of the probe. As such, probe 26 is not a temperature indicator.

Claim 1 further positively calls for, in part, an advancement mechanism positioned about an outer surface of the housing and capable of contact with the temperature indicator stick positioned in a chamber of the housing. The Examiner states that advancement mechanism 22 is positioned about the outer surface of the housing (lower portion of 10). Such is not the case. As shown in Fig. 1, it is apparent that driven gear 22 is mounted within the perimeter of apparatus 10. As such, what the Examiner calls the advancement mechanism, driven gear 22, is not positioned about an outer surface of the apparatus nor is it capable of contact with a temperature indicator stick. Fox states that "screw 30 is threadingly received by driven gear 22 ..." Col. 3, lns. 31-32. That is, it is screw 30 that is in "contact" with the temperature probe, not the driven gear 22. The Fox reference does not disclose "an advancement mechanism positioned about the outer surface of the housing and capable of contact with a temperature indicator stick..." As such, at least for these reasons, claim 1, and those claims that depend therefrom are patentably distinct over the art of record.

The Examiner rejected claim 10 under 35 U.S.C. §102(b) as being anticipated by Fox stating that Fox shows "a temperature indicator stick extension and retraction apparatus". However, claim 10 calls for, in part, means for aligning a temperature indicator stick and means for controlling axial movement of the temperature indicator stick. As argued above, a person of ordinary skill in the art would readily recognize that the apparatus of Fox does not include a temperature indicator stick at all as called for in claim 10. Because Fox does not disclose a temperature indicator stick, it cannot disclose a means for aligning a temperature indicator stick, and it cannot disclose a means for controlling axial movement of such a temperature indicator stick. While Applicant recognizes the Examiner's interpretation of the temperature probe 26 as a "temperature indicator stick", such an interpretation ignores the quite common interpretation of a temperature indicator stick given that term by those skilled in the art and as explained in the

Specification. However, even ignoring the interpretation given by those skilled in the art, as previously explained, the temperature probe 26 does not "indicate" any temperature whatsoever. As shown in Fig. 3 of Fox, Fox requires a separate, external "indicator 50." As such, that which is called for in claim 10, and those claims that depend therefrom, are patentably distinct over the art of record.

The Examiner next rejected claim 18 under 35 U.S.C. §102(b) as being anticipated by Fox stating that Fox shows:

> An apparatus to extend and retract a temperature indicator stick, the apparatus comprising: a housing (lower portion of 10) having at least one annular ring at one end 14 and adapted to receive within the housing a temperature indicator stick 26; a resistance mechanism (lower portion of 22) secured to the housing to oppose rotational movement of the temperature indication stick 26; and a collet 22 having threads and rotatably coupled to the at least one annular ring of the housing, the collet 22 configured to engage the temperature indicator stick 26 upon rotation of the collet about the housing. (the housing is only view as the lower half)

Even assuming arguendo that the temperature probe is a temperature indicator stick (which it is not), the housing (lower portion of 10) does not have an annular ring at one end (14). Fox states that "Driver gear 14 meshes with driven gear 22 which is rotatably mounted in the housing of automated temperature probe 10 by bearings 24." Col. 3, lns. 26-28. Bearings 24 are inserted into a recess of housing (lower portion of 10); however, a recess is not an annular ring as called for in claim 18. Additionally, driven gear 22 is not secured to the housing nor is it constructed to oppose rotational movement of the temperature probe 26. As is commonly known in the art, a bearing is implemented to facilitate rotation between related elements. Similarly a person of ordinary skill in the art would readily recognize that driven gear 22 is not a collet. A collet is something that holds circular or rod-like pieces. See: American Heritage Dictionary definition attached. As the reference states, element 22 is a gear. Further, the inner surface of driven gear 22 is threaded to screw 30, not temperature probe 26. Yet a further distinction, claim 18 calls for, in part, that the collet is configured to engage the temperature indicator stick upon rotation of the collet about the housing. Applicant does not disagree that driven gear 22 is capable of rotation relative to a housing (lower portion of 10), but being rotatable relative thereto is not rotatable thereabout. As such, for at least the reasons set forth heretofore, claim 18, and those claims that depend therefrom, are patentable over the art of record.

The Examiner rejected claim 24 under 35 U.S.C. §102(b) as being anticipated by Fox stating that Fox shows an apparatus to reposition a temperature indicator stick. As previously

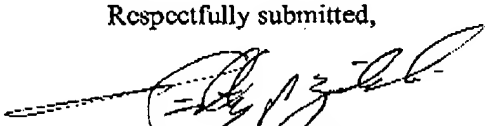
argued, it is implausible that a person of ordinary skill in the art would consider a temperature probe incorporating a thermocouple, as shown in Fox, as a temperature indicator stick. A temperature indicator stick is a term of art commonly used in the metal working trades and is indicative of a material constructed to not only measure temperature, but indicate temperature as well. As such, that which is called for in claims 24 and 26 is patentably distinct over the art of record inasmuch as each claim recites, in part, at least one temperature indictor stick.

With respect to the Examiner's rejection of claim 25, the Examiner states that the first indicator stick of Fox is shortened during normal use. Applicant does not disagree that temperature probe of Fox is extended and retracted from the housing during normal use. Fox states that during operation "... temperature probe 26 is driven into and withdrawn from a viscous material flow." Col. 4, lns. 8-10. Such is not a shortening of the temperature probe during normal use. A temperature indicator stick is a consumable associated with metal working processes. The temperature indicator stick is consumed during normal use which results in shortening of the temperature indicator stick. As such, in addition to the arguments set forth above, claim 25 is patentably distinct over the art of record.

Therefore, in light of the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-26.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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Dated: January 6, 2004
Attorney Docket No.: ITW7510.005

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